Remarks

The restriction requirement mailed July 24, 2002 has been received and reviewed. The application was subjected to a twelve-way restriction requirement. Applicants provisionally elect to prosecute the claims of Group VIII containing claims15, 16, 19 through 21 and directed to SEQ ID NO:9. The non-elected claims are to be canceled.

Applicants respectfully request, however, that, per the Commissioner's *sua sponte* decision to partially waive the requirements of 37 C.F.R. § 1.141 *et seq.*, the Office "permit a reasonable number of . . . nucleotide sequences to be claimed in [this] single application. *See*, Examination of Patent Applications Containing Nucleotide Sequences, 1192 O.G. 68 (November 19, 1996)." M.P.E.P. § 803.04. As stated in the Manual of Patent Examining Procedure,

"It has been determined that normally ten sequences constitute a reasonable number for examination purposes. Accordingly, in most cases, up to ten independent and distinct nucleotide sequences will be examined in a single application without restriction."

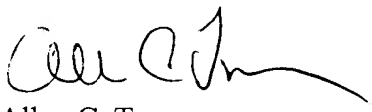
Accordingly, although applicants have provisionally elected Group VIII (relating to SEQ ID NO:9), applicants respectfully request that the Office also examine Group VII (relating to SEQ ID NO:1). In support of this request, applicants point out that both groups are drawn to a method of inducing apoptosis in a cell or in a subject comprising administering the particular polynucleotide or functional equivalent thereof. Both Groups are classified in the same class and sub-class, so no undue searching should be required. Also, search results from the European Patent Office have already been presented the Office as part of an Information Disclosure Statement, to further aid the Office.

Concerning an unrelated matter, submitted herewith is the certified copy of applicants' priority document.

Conclusion

If questions should exist after consideration of the foregoing, the Office is kindly requested to contact applicants' undersigned attorney.

Respectfully submitted,



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15. (Amended) A method of inducing apoptosis in a cell comprising administering to said cell an apoptosis inducing substance selected from the group consisting of:

an isolated or recombinant nucleic acid of SEQ ID NO:1 or SEQ ID NO:9 or a functional equivalent or functional fragment thereof, said functional equivalent or functional fragment thereof encoding an Apoptin-associating proteinaceous substance capable of causing apoptosis in a cell to which said isolated or recombinant nucleic acid or Apoptin-associating proteinaceous substance has been delivered,

a vector comprising an isolated or recombinant nucleic acid of SEQ ID NO:1 or SEQ ID NO:9 or a functional equivalent or functional fragment thereof, said functional equivalent or functional fragment thereof encoding an Apoptin-associating proteinaceous substance capable of causing apoptosis in a cell to which said isolated or recombinant nucleic acid or Apoptin-associating proteinaceous substance has been delivered,

[a host cell transformed with an isolated or recombinant nucleic acid of SEQ ID NO 1 or SEQ ID NO 9 or a functional equivalent or functional fragment thereof, said functional equivalent or functional fragment thereof encoding an Apoptin-associating proteinaceous substance capable of causing apoptosis in a cell to which said isolated or recombinant nucleic acid or Apoptin-associating proteinaceous substance has been delivered,

an isolated or recombinant Apoptin-associating proteinaceous substance comprising a sequence as shown in SEQ ID NO 2 or SEQ ID NO 10 or a functional equivalent or functional fragment thereof capable of causing apoptosis in a cell to which said proteinaceous substance has been administered,] and

mixtures thereof.

19. (Amended) A method for treating a subject having a disease wherein enhanced cell proliferation or decreased cell death is observed, said method comprising treating the subject with the pharmaceutical composition comprising:

a pharmaceutically acceptable amount of a component selected from the group consisting of:

an isolated or recombinant nucleic acid of SEQ ID NO:1 or SEQ ID NO:9 or a functional equivalent or functional fragment thereof, said functional equivalent or functional fragment thereof encoding an Apoptin-associating proteinaceous substance capable of causing apoptosis in a cell to which said isolated or recombinant nucleic acid or Apoptin-associating proteinaceous substance has been delivered,

a vector comprising an isolated or recombinant nucleic acid of SEQ ID NO:1 or SEQ ID NO:9 or a functional equivalent or functional fragment thereof, said functional equivalent or functional fragment thereof encoding an Apoptin-associating proteinaceous substance capable of causing apoptosis in a cell to which said isolated or recombinant nucleic acid or Apoptin-associating proteinaceous substance has been delivered,

[a host cell transformed with an isolated or recombinant nucleic acid of SEQ ID NO 1 or SEQ ID NO 9 or a functional equivalent or functional fragment thereof, said functional equivalent or functional fragment thereof encoding an Apoptin-associating proteinaceous substance capable of causing apoptosis in a cell to which said isolated or recombinant nucleic acid or Apoptin-associating proteinaceous substance has been delivered,

an isolated or recombinant Apoptin-associating proteinaceous substance comprising a sequence as shown in SEQ ID NO 2 or SEQ ID NO 10 or a functional equivalent or functional fragment thereof capable of causing apoptosis in a cell to which said proteinaceous substance has been administered,] and

mixtures thereof,

together with a pharmaceutically acceptable carrier, acceptable for said subject and said component to induce apoptosis.